

## UNITED STATES DISTRICT COURT

for the

District of Minnesota

United States of America

v.

Jerry Martese Dubose

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Case No: 08-cr-232(8) (MJD/AJB)

USM No: 40605-424

Date of Original Judgment:

11/18/2009

Date of Previous Amended Judgment:

(Use Date of Last Amended Judgment if Any)

pro se

Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months is reduced to \_\_\_\_\_.

## I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: \_\_\_\_\_

Amended Total Offense Level: \_\_\_\_\_

Criminal History Category: \_\_\_\_\_

Criminal History Category: \_\_\_\_\_

Previous Guideline Range: \_\_\_\_\_

Amended Guideline Range: \_\_\_\_\_

## II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☐ The reduced sentence is above the amended guideline range.

## III. ADDITIONAL COMMENTS

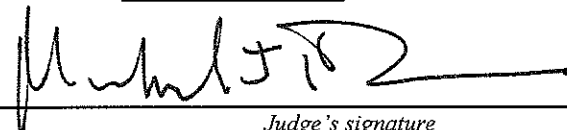
Defendant was sentenced to 120 months in prison, the statutory mandatory minimum. 21 U.S.C. § 841(b)(1)(A). Because he was sentenced to the statutory minimum sentence, Defendant is not eligible for a sentence reduction based on the amended crack guidelines. See United States v. Peters, 524 F.3d 905, 906 (8th Cir. 2008). Also, the reduced statutory mandatory minimum penalties set forth in the Fair Sentencing Act are not applied retroactively. See United States v. Smith, 632 F.3d 1043, 1047-49 (8th Cir. 2011).

Except as otherwise provided, all provisions of the judgment dated \_\_\_\_\_ shall remain in effect.

IT IS SO ORDERED.

Order Date:

March 26, 2012



Judge's signature

Effective Date:

(if different from order date)

Michael J. Davis, Chief Judge, D. Minn.

Printed name and title